## **COMMITTEE REPORT**

## **MADAM PRESIDENT:**

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 394, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1	Delete everything after the enacting clause and insert the
2	following:
3	SECTION 1. IC 7.1-3-2-7 IS AMENDED TO READ AS
4	FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The holder of a
5	brewer's permit or an out-of-state brewer holding either a primary
6	source of supply permit or an out-of-state brewer's permit may do the
7	following:
8	(1) Manufacture beer.
9	(2) Place beer in containers or bottles.
10	(3) Transport beer.
11	(4) Sell and deliver beer to a person holding a beer wholesaler's
12	permit issued under IC 7.1-3-3.
13	(5) If the brewer's brewery manufactures not more than twenty
14	thousand (20,000) barrels of beer in a calendar year, do the
15	following:
16	(A) Sell and deliver beer to a person holding a retailer or a
17	dealer permit under this title.
18	(B) Be the proprietor of a restaurant.
19	(C) Hold a beer retailer's permit, a wine retailer's permit, or
20	a liquor retailer's permit for a restaurant established under
21	clause (B).
22	(D) Transfer beer directly from the brewery to the restaurant
23	by means of:
24	(i) bulk containers; or
25	(ii) a continuous flow system.
26	(F) Install a window between the brewery and an adjacent

both premises.  (F) Install a doorway or other opening between the brevent and an adjacent restaurant that provides the public and permittee with access to both premises.  (G) Sell the brewery's beer by the glass for consumption the premises. Brewers permitted to sell beer by the glass for consumption the premises. Brewers permitted to sell beer by the glass for consumer the permises of the brewer or at the residence of consumer. The delivery to a consumer at the permises of the brewer or at the residence of consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more to one-half (1/2) barrel, but the beer may be contained bottles or other permissible containers.  (6) If the brewer's brewery manufactures more than two thousand (20,000) barrels of beer in a calendar year, on portion of the corporate stock of another brewery that:  (A) is located in the same county as the brewer's brew (B) manufactures less than twenty thousand (20,001) barrels of beer in a calendar year; and  (C) is the proprietor of a restaurant that operates unsubdivision (5).  (7) Sell and deliver beer to a consumer at the plant of the brever in a calendar year; and (C) is the proprietor of a restaurant that operates unsubdivision (5).  (7) Sell and deliver beer to a consumer at the plant of the brever in a calendar year; and (C) is the proprietor of a restaurant of the brever or at the residence of the consumer. The delivery to a consument of the brever in the made only in a quantity at any one (1) time of not in than one-half (1/2) barrel, but the beer may be contained by the brewer in the plant of the brever in the plant of the premises.  (B) (7) Provide complimentary samples of beer that are:  (A) produced by the brewer; and (B) offered to consumers for consumption on the brever in the plant of the premises.  (9) (8) Own a portion of the corporate stock of a specific permise a liquor retailer's permit, a wine retailer's permit a liquor retailer's permit for a restaurant located in same county as th		
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11	17	to be used as a warehouse by an applicant shall be described in the
19 wholesaler's nermit to an applicant for any other warehouse or prem	18	application for the permit The commission shall not issue a beer
wholesaler's permit to an applicant for any other warehouse of premi	19	wholesaler's permit to an applicant for any other warehouse or premises

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than that described in the application. The commission shall issue only

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one (1) beer wholesaler's permit to an applicant, but and need not be located within the corporate limits of an incorporated city or town. A permittee may be permitted to transfer his the permittee's warehouse to another location within the county, upon application to, and approval of, the commission.

(b) As used in this subsection, "immediate relative" means the father, the mother, a brother, a sister, a son, or a daughter of a wholesaler permittee. Notwithstanding subsection (a), the commission, upon the death or legally adjudged mental incapacitation of a wholesaler permittee, may allow the transfer of the wholesaler permit only to an immediate relative of the wholesaler permittee who concurrently holds a majority share in a valid wholesaler permit.

SECTION 3. IC 7.1-3-3-5, AS AMENDED BY P.L.224-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

- (b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:
  - (1) another beer wholesaler authorized by the brewer to sell the brand purchased;
  - (2) a consumer; an employee; or
  - (3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, or supplemental caterer's permit;

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

- (c) Delivery of beer to a consumer shall be made in barrels only with the exception of The beer wholesaler's bona fide regular employees who may purchase beer from the wholesaler in:
  - (1) bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints; or
  - (2) one (1) keg;

at any one (1) time.

- (d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.
- (e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:
  - (1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.
  - (2) A wine retailer's permit, wine dealer's permit, temporary

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1 wine permit, dining car wine permit, boat permit, airplane 2 permit, or supplemental caterer's permit. 3 (f) A beer wholesaler may: 4 (1) store beer for an out-of-state brewer described in 5 IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the 6 7 8 (2) perform all necessary accounting and auditing functions 9 associated with the services described in subdivision (1); and 10 (3) receive a fee from an out-of-state brewer for the services 11 described in subdivisions (1) through (2). 12 SECTION 4. IC 7.1-3-6.5-7 IS ADDED TO THE INDIANA 13 CODE AS A NEW SECTION TO READ AS FOLLOWS 14 [EFFECTIVE JULY 1, 2007]: Sec. 7. A person, including a 15 permittee, who knowingly or intentionally: 16 (1) purchases beer contained in a keg from a wholesaler or 17 dealer permittee; and 18 (2) does not return the keg to the wholesaler or dealer 19 permittee described in subdivision (1) within one hundred 20 twenty (120) days after the date the beer was purchased; 21 commits a Class A misdemeanor. SECTION 5. IC 7.1-3-9-11 IS AMENDED TO READ AS 22 23 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A liquor retailer 24 may allow customers to sample the following: 25 (1) Beer. (2) Wines. 26 27 (3) Liquors. 28 (4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)). 29 (5) Flavored malt beverages. 30 (6) Hard cider. 31 (b) Sampling is permitted only: 32 (1) on the liquor retailer's permit premises; and (2) during the permittee's regular business hours. 33 34 (c) A liquor retailer may not charge for the samples provided to 35 customers. (d) Sample size of wines may not exceed one (1) ounce. 36 (e) In addition to the other provisions of this section, a liquor 37 38 retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following: 39 40 (1) A liquor retailer may allow a customer to sample only a 41 combined total of two (2) liquor, liqueur, or cordial samples per 42 day. 43 (2) Sample size of liqueurs or cordials may not exceed one-half 44 (1/2) ounce. (3) Sample size of liquors may not exceed four-tenths (0.4) 45 ounce. 46 47 (f) A sample size of beer, flavored malt beverages, or hard cider 48 may not exceed six (6) ounces. 49 SECTION 6. IC 7.1-3-10-13 IS AMENDED TO READ AS 50 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) A liquor dealer

1 permittee who is a proprietor of a package liquor store may allow 2 customers to sample the following: 3 (1) Beer. 4 (2) Wines. 5 (3) Liquors. 6 (4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)). 7 (5) Flavored malt beverages. 8 (6) Hard cider. 9 (b) Sampling is permitted: 10 (1) only on the package liquor store permit premises; and (2) only during the store's regular business hours. 11 12 (c) No charge may be made for the samples provided to the 13 customers. 14 (d) Sample size of wines may not exceed one (1) ounce. 15 (e) In addition to the other provisions of this section, a proprietor who allows customers to sample liquors, liqueurs, or cordials shall 16 comply with all of the following: 17 18 (1) A proprietor may allow a customer to sample not more than 19 a combined total of two (2) liquor, liqueur, or cordial samples 20 per day. 2.1 (2) Sample size of liqueurs or cordials may not exceed one-half 2.2. (1/2) ounce. 23 (3) Sample size of liquors may not exceed four-tenths (0.4) 24 ounce. 25 (f) Sample size of beer, flavored malt beverages, or hard cider 26 may not exceed six (6) ounces. 27 SECTION 7. IC 7.1-3-13-1 IS AMENDED TO READ AS 28 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The commission 29 may issue a wine wholesaler's permit to sell wine, or wine and brandy, 30 at wholesale to a person who: (1) notwithstanding IC 7.1-5-9-4, holds a beer wholesaler's 31 32 permit; 33 (2) holds a liquor wholesaler's permit; or (3) does not hold an alcoholic beverage wholesaler's permit, but 34 35 meets the qualifications to hold either a beer or a liquor 36 wholesaler's permit. 37 (b) The holder of a wine wholesaler's permit under subsection (a)(1) or (a)(2): 38 (1) is considered the same as a person who holds a wine 39 wholesaler's permit under subsection (a)(3) for purposes of 40 41 conducting activities and operations under the wine wholesaler's 42. permit; and 43 (2) may operate the beer or liquor wholesale business 44 independently of the wine wholesale business. 45 SECTION 8. IC 7.1-3-13-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS 46 [EFFECTIVE JULY 1, 2007]: Sec. 3.5. (a) A wine wholesaler may 47 sell wine purchased from an estate sale only if the following 48

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(1) The primary source of the wine sold at auction:

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requirements are met:

1	(A) is another in a decorate for the decorate and the decorate at the decorate
1 2	<ul> <li>(A) is authorized to sell wine in Indiana on the date the wine is resold by the wholesaler;</li> </ul>
3	(B) is given notice of the purchase by the wine
4	wholesaler; and
5	(C) authorizes the wine wholesaler to resell the wine
6	purchased.
7	(2) The seller of wine at auction is a bona fide estate of an
8	Indiana decedent.
9	(3) Each wine bottle has a sticker affixed to it indicating that
10	the wine was purchased from an estate.
11	(b) The notice given to the primary source under subsection
12	(a)(1) must include the following information:
13	(1) The name of the seller.
14	(2) The amount of the product purchased and the sale price
15	at auction.
16	(3) The vintage of the wine purchased.
17	(c) A wholesaler is not liable for product liability or negligence
18	for wine that the wholesaler sells from an estate auction purchase.
19	SECTION 9. IC 7.1-3-21-3, AS AMENDED BY P.L.165-2006,
20	SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21	JULY 1, 2007]: Sec. 3. The commission shall not issue:
22	(1) an alcoholic beverage retailer's or dealer's permit of any type;
23	or
24	(2) a liquor wholesaler's permit;
25	to a person who has not been a continuous and bona fide resident of
26	Indiana for five (5) years immediately preceding the date of the
27	application for a permit.
28	SECTION 10. IC 7.1-3-21-4, AS AMENDED BY P.L.165-2006,
29	SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30	JULY 1, 2007]: Sec. 4. The commission shall not issue:
31 32	<ul><li>(1) a liquor wholesaler's permit; or</li><li>(2) an alcoholic beverage retailer's or dealer's permit;</li></ul>
33	of any type to a partnership unless each member of the partnership
34	possesses the same qualifications as those required of an individual
35	applicant for that particular type of permit.
36	SECTION 11. IC 7.1-3-21-5, AS AMENDED BY P.L.165-2006,
37	SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38	JULY 1, 2007]: Sec. 5. (a) The commission shall not issue:
39	(1) an alcoholic beverage retailer's <del>or dealer's</del> permit of any type;
40	or
41	(2) a liquor wholesaler's permit;
42	to a corporation unless sixty percent (60%) of the outstanding common
43	stock is owned by persons who have been continuous and bona fide
44	residents of Indiana for five (5) years.
45	(b) The commission shall not issue a liquor wholesaler's permit to
46	a corporation unless at least one (1) of the stockholders shall have been
47	a resident, for at least one (1) year immediately prior to making
48	application for the permit, of the county in which the licensed premises
49	are to be situated

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(c) Each officer and stockholder of a corporation shall possess all

other qualifications required of an individual applicant for that particular type of permit.

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SECTION 12. IC 7.1-3-21-5.2, AS AMENDED BY P.L.165-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.2. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit; to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and

bona fide residents of Indiana for five (5) years.

- (b) The commission shall not issue a liquor wholesaler's permit to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.
- (c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 13. IC 7.1-3-21-5.4, AS AMENDED BY P.L.165-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.4. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit; to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.
- (b) The commission shall not issue a liquor wholesaler's permit to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.
- (c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 14. IC 7.1-3-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The provisions of sections 4, 5, 5.2, and 5.4 of this chapter concerning retail and dealer partnerships, corporations, limited partnerships, and limited liability companies shall not apply to the issuance of:

- (1) a dining car permit;
- (2) a boat permit;
- (3) a drug store permit;
- 45 (4) a grocery store permit;
- 46 (5) a hotel permit;
- 47 (6) **an** airplane permit;
- 48 (7) an excursion and adjacent landsite permit;
- 49 (8) a horse track permit;
- 50 (9) a satellite facility permit; or

1 (10) a retail permit to an establishment: 2 (A) that is sufficiently served by adequate law enforcement 3 at its permit location; and 4 (B) whose annual gross food sales at the permit location: 5 (i) exceed one hundred thousand dollars (\$100,000); or 6 (ii) in the case of a new application and as proved by 7 the applicant to the local board and the commission, 8 will exceed two hundred thousand dollars (\$200,000) 9 by the end of the two (2) year period from the date of 10 the issuance of the permit. 11 (b) The commission shall not issue a permit listed in subsection (a) 12 to a foreign: (1) corporation; 13 14 (2) limited partnership; or (3) limited liability company; 15 16 that is not duly qualified to do business in Indiana. SECTION 15. IC 7.1-3-22-2.1 IS ADDED TO THE INDIANA 17 18 CODE AS A NEW SECTION TO READ AS FOLLOWS 19 [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) Except as provided in 20 subsection (b), the commission may issue only one (1) liquor 21 wholesaler's permit in each county in Indiana. 22 (b) The commission may issue additional liquor wholesaler's 23 permits on the basis of one (1) additional permit for each 24 thirty-five thousand (35,000) unit of population, or fraction 25 thereof, in a county whose population exceeds thirty-five thousand 26 (35,000).27 (c) This section does not affect a permit issued or the right of 28 renewal or successive renewals of a permit issued in a county in 29 which the limitations under subsection (a) or (b) are exceeded, as 30 of June 30, 2007. SECTION 16. IC 7.1-3-22-2.2 IS ADDED TO THE INDIANA 31 32 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.2. (a) Except as provided in 33 34 subsection (b), the commission may issue only one (1) wine 35 wholesaler's permit in each county in Indiana. 36 (b) The commission may issue additional wine wholesaler's 37 permits on the basis of one (1) additional permit for each 38 thirty-five thousand (35,000) unit of population, or fraction 39 thereof, in a county whose population exceeds thirty-five thousand 40 (35,000).41 (c) This section does not affect a permit issued or the right of 42 renewal or successive renewals of a permit issued in a county in 43 which the limitations under subsection (a) or (b) are exceeded, as 44 of June 30, 2007.

permit to have an interest in a liquor permit of any type under this title.

FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) This section

applies to a brewer that manufactures more than twenty thousand

(20,000) barrels of beer in a calendar year.

SECTION 17. IC 7.1-5-9-3 IS AMENDED TO READ AS

(b) It is unlawful for the holder of a brewer's or beer wholesaler's

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SECTION 18. IC 7.1-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. Except as provided in IC 7.1-3-3-4, An applicant for a beer wholesaler's permit shall have no interest in the following: (1) A permit to manufacture or to sell at retail alcoholic beverages of any kind. (2) Any other permit to wholesale alcoholic beverages. (3) (2) Through stock ownership or otherwise, a partnership, limited liability company, or corporation that holds (A) a permit to manufacture or to sell at retail alcoholic beverages of any kind. or (B) any other permit to wholesale alcoholic beverages of any kind. SECTION 19. IC 7.1-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (d), it is unlawful to sell alcoholic beverages at the following times: (1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14. (2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day. (3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days. (4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days. (b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises, and the licensed premises shall remain closed to the extent that the nature of the business carried on the premises, as at a hotel or restaurant, permits. (c) It is unlawful to sell alcoholic beverages on New Year's Day for off-premises consumption. (d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time. SECTION 20. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) A wholesaler permittee who knowingly or intentionally sells a brand of alcoholic beverages that the wholesaler permittee has not been authorized to sell by the brand's primary source of supply commits a Class D felony. (b) A permittee who is injured as a result of a violation of this section has a private right of action to bring a civil action to

CODE AS A **NEW** SECTION TO READ AS FOLLOWS

who violates this section.

RS 039401/ta 2007+

recover compensatory damages against the wholesaler permittee

SECTION 21. IC 34-30-2-19.5 IS ADDED TO THE INDIANA

1	[EFFECTIVE JULY 1, 2007]: Sec. 19.5. IC 7.1-3-13-3.5 (Concerning
2 3 4	wine purchased at an estate sale and resold by a wine wholesaler).  SECTION 22. IC 7.1-3-3-19 IS REPEALED [EFFECTIVE JULY 1, 2007].  (Reference is to SB 394 as introduced.)
	ended that said bill be reassigned to the Senate Committee on Commerce, Public Policy ooperation.
	LONG, Chairperson